

OCA FILE Leg

10 May 1988
OCA 88-1475

MEMORANDUM FOR: Chief, Logistics & Procurement Law Division/OGC
FROM: [REDACTED], Legislation Division
Office of Congressional Affairs
SUBJECT: Interest and Legal Fees for Subcontractors,
H.R. 3356

1. Attached is a copy of the above-captioned bill, which provides for interest and legal fees in judgments for subcontractors based on payment bonds. Although this bill appears to present no problem for the Agency, I wish to make you aware that there are hearings currently scheduled.

2. Should you determine that there are problems, please telephone me on [REDACTED]

Attachment

OCA [REDACTED] (10 May 1988)

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LEGI-SLATE Report for the 100th Congress

Tue, May 10, 1988 12:22pm (EDT)

Report for H.R.3356 Miller Act, Amendment
As introduced in the House
Complete Text of this version

100th CONGRESS
1st Session

H. R. 3356

To amend the Miller Act to provide for the inclusion of interest and legal fees in judgments granted on suits by subcontractors based upon payment bonds, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

September 29, 1987

Mr. Frank introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend the Miller Act to provide for the inclusion of interest and legal fees in judgments granted on suits by subcontractors based upon payment bonds, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENTS TO THE MILLER ACT.

Section 2 of the Act of August 24, 1935 (40 U.S.C. 270b; 49 Stat. 794), is amended--

(1) by inserting after "furnished under this Act" in subsection (a) the following: "(including labor, health and welfare, and other labor benefits for such labor furnished to a subcontractor entitled to payment bond protection)";

(2) by striking out "and who has not been paid" in subsection (a) and inserting in lieu thereof "and (1) who has not been paid in full for a progress payment before the expiration of a period of thirty days after the due date for such payment, or (2) who has not been paid";

(3) by striking out "registered mail" in the last sentence of subsection (a) and inserting in lieu thereof "registered or certified

mail";

(4) by inserting after the first sentence of subsection (b) the following new sentence: "The court shall not dismiss any complaint on the ground that it was filed prior to the ninetieth day after the last of the labor was performed, and shall not enter judgment for all or part of any such claim prior to the thirtieth day after a progress payment is due or prior to the ninetieth day after the last of the labor was performed or last of the materials were furnished. A judgment in favor of any such person under this section shall include interest at the rate published by the Secretary of the Treasury pursuant to section 3902(a) of title 31, United States Code (the Prompt Payment Act, from the date on which the payment was due, together with reasonable legal fees (based upon the time spent and the results accomplished)."; and

(5) by adding at the end of subsection (b) the following: "No promise or agreement to waive any right under this Act shall be valid if made or entered into prior to the date of accrual of the right to sue on the payment bond, as provided in this section; and payment for all labor and materials furnished in the prosecution of such work shall be conclusively presumed to be due on such date unless an earlier date has been agreed upon by the parties.".

SEC. 2. EFFECTIVE DATE.

The amendments made by this Act shall not be applicable to any contract entered into prior to the date of the enactment of this Act.
